

CHAPTER NO. 194

SENATE BILL NO. 1079

By Womack

Substituted for: House Bill No. 1258

By White, Fitzhugh

AN ACT To amend Tennessee Code Annotated, Section 45-2-907, relative to special remedies for nonpayment of rent and safe deposit boxes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-2-907, is amended by deleting the section in its entirety and by substituting instead the following:

Special remedies for nonpayment of rent. (a) Notice. If the rental due on a safe deposit box has not been paid, the lessor shall, not sooner than thirty (30) days nor later than four (4) years after such rental was due, send a notice by certified mail, return receipt requested, or by registered mail to the last known address of the lessee, stating that unless payment of the rental is made within thirty (30) days after the date of such notice:

(1) the safe deposit box will be opened and its contents stored for a minimum of one (1) year at the expense of the lessee;

(2) without additional notice to the lessee, the contents may be offered for sale and unsold or unsalable items will be destroyed; and

(3) the proceeds of the sale, less expenses, unpaid rental charges, and storage will be transferred to the State Treasurer pursuant to Title 66, Chapter 29, Part 1.

(b) Inventory and Report to State Treasurer. If the rental is not paid within thirty (30) days from the mailing of the notice, the box shall be opened in the presence of an officer or employee of the lessor and a notary public who also may be, but is not required to be, an officer or employee of the lessor. Such persons shall take an inventory of the contents of the safe deposit box. The contents, together with the inventory, shall be sealed in a package by the notary public who shall write on the outside the name of the lessee and the date of the opening. The lessor shall report the name and last known address of the lessee and the contents of the box, as attested by the notary public, to the treasurer pursuant to Title 66, Chapter 29, Part 1. The report shall be delivered to the treasurer in a format as prescribed by the treasurer and shall be due on May 1st of the year following the calendar year in which the box is opened. The package shall then be retained by the lessor at a rental not exceeding the rental charges for the box.

(c) Disposition of Property. Prior to an auction or sale, the following types of property may be rejected as unsalable by an independent appraiser, an auctioneer, or the lessor and disposed of in the following manners:

(1) documents or writings of a private nature having little or no apparent value may be destroyed by the lessor;

(2) coins or currency with a face value of twenty dollars (\$20.00) or less each which are valued at no more than twice the face value, shall be treated as proceeds from a sale and deposited as provided in subsection (e);

(3) coins or currency with a face value of greater than twenty dollars (\$20.00) each which are valued at one hundred twenty-five percent (125%) or less of face value, shall be treated as proceeds from a sale and deposited as provided in subsection (e);

(4) any tangible item having an estimated sale value of less than twenty-five dollars (\$25.00) may be destroyed by the lessor, provided the aggregate value of all such items for a specific lessee does not exceed two hundred fifty dollars (\$250.00); and

(5) any intangible property including, but not limited to, stocks, bonds and promissory notes, shall be delivered to the State Treasurer pursuant to Title 66, Chapter 29, Part 1.

A current version of any recognized numismatist publication may be utilized for purposes of valuation of coins and currency.

(d) Sale of Property. If the contents of the safe deposit box have not been claimed and redeemed by the payment of charges within one (1) year after filing the report with the treasurer, but not before May 1 of the succeeding year, the lessor shall sell the contents of the box at public auction or by other commercially reasonable sale at whatever time and place affords, in the judgment of the lessor, the most favorable price for the property involved. For purposes of this section, "commercially reasonable" is a sale that would be commercially reasonable under Section 47-9-504. A lessor may sell the contents of safe deposit boxes in a sale conducted exclusively for the lessor, or in a sale conducted jointly for the lessor and any number of other financial institutions or other entities. The time, place and manner of any public sale shall be posted conspicuously on the premise of the lessor and advertised once in a newspaper of general circulation in the community, or in some other commercially reasonable manner of advertising. Property sold through other than a public auction shall be appraised, in writing, by a person who does not acquire the appraised contents and who is regularly engaged in the business of appraising, buying or selling like merchandise, or any other combination thereof. Firearms shall be sold through a federal firearm licensed dealer, or if sold at public auction, through an auctioneer who possesses a federal firearm license.

(e) Disposition of Sale Proceeds. The monetary proceeds resulting from any sale conducted pursuant to this section, after deducting accumulated charges, including a proportionate share of the expense of advertising and conducting the sale, shall be deposited to the credit of the lessee in any existing account maintained by the lessor on behalf of the lessee, provided that such deposit shall not constitute account activity under Title 66, Chapter 29, Part 1. If no account exists, proceeds shall be delivered to the State Treasurer pursuant to Title 66, Chapter 29, Part 1.

(f) Immunity for Destruction of Property. Property offered for sale at a public auction or other commercially reasonable sale for which no purchaser exists shall be destroyed by the lessor and no action or proceeding may be maintained against the lessor, the independent appraiser or auctioneer, the treasurer or any of their employees for or on account of such action. If, prior to

such sale, such property is rejected by an independent appraiser or auctioneer in accordance with subsection (c), such property shall be destroyed by the lessor and no action or proceeding may be maintained against the lessor, the independent appraiser or auctioneer, the treasurer or any of their employees for or on account of such action.

(g) Final Report. After disposition of all contents of a safe deposit box, the lessor shall provide to the State Treasurer an updated inventory on the contents of such box, together with property not sold pursuant to subsection (c)(5). Such report shall include information that the State Treasurer may, by rule and regulation, direct.

SECTION 2. For purpose of transitioning from the law in effect prior to passage of this act to the process specified in SECTION 1, the following provisions shall apply:

(a) the contents of all safe deposit boxes opened pursuant to the provisions of Tennessee Code Annotated, Section 45-2-907, on and after the effective date of this act shall be subject to the provisions of this act; and

(b) the contents of all safe deposit boxes opened pursuant to the provisions of Tennessee Code Annotated, Section 45-2-907, prior to the effective date of this act shall be subject to the notice provisions of prior law; provided, however, the financial institution may elect to apply the provisions of SECTION 1 (c) through (g) of this act to the sale and disposal of such property.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 10, 1999


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 19th day of May 1999


DON SUNDQUIST, GOVERNOR